

DRAFT  
MINUTES OF THE CITY COUNCIL  
OF THE  
CITY OF GREENSBORO, N. C.

REGULAR MEETING:

7 JULY 1998

The City Council of the City of Greensboro met in regular session at 6:00 p.m. on the above date in the Council Chamber of the Melvin Municipal Office building with the following members present: Mayor Carolyn S. Allen, presiding; Councilmembers Claudette Burroughs-White, Sandra G. Carmany, Keith A. Holliday, Yvonne J. Johnson, Nancy Mincello, Robert V. Perkins and Donald R. Vaughan. Absent: Councilmember Earl F. Jones, excused by Council and entering early in the meeting. Also present were J. Edward Kitchen, City Manager; Linda A. Miles, Deputy City Attorney; and Juanita F. Cooper, City Clerk.

The meeting was opened with a moment of silence and the Pledge of Allegiance to the Flag.

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The Manager recognized Gene Land, employee in Guilford/Greensboro Telecommunications Division of the Technology and Facilities Department, who served as courier for the meeting.

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Upon motion of Councilmember Carmany, seconded by Councilmember Vaughan, Councilmember Jones was excused from attendance at this meeting.

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Mayor Allen explained the Council Procedure for conduct of the meeting.

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Councilmember Jones entered the Chamber at 6:05 p.m.

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Mayor Allen stated that this was the time and date for a public hearing for consideration of an Ordinance rezoning from Conditional Use-Light Industrial to Conditional Use-Light Industrial for property located on the east side of Guilford College Road between Nicholas Road and Bramblegate Road; she advised this matter had been continued from the May 5 and June 2, 1998 meetings of Council. Mayor Allen administered the oath to those in the Chamber who wished to speak to this matter.

C. Thomas Martin, Planning Department Director, advised that a detailed presentation with respect to this zoning had been provided to Council at an earlier meeting. He noted this rezoning would permit a communication tower at the location and that the Planning Staff supported the rezoning request.

The Mayor asked if anyone wished to be heard.

Yvette Arceneaux and Chris Seagren, representing the Sprint Company at 3237-G West Friendly Avenue, spoke in favor of the rezoning. Ms. Arceneaux reviewed the company's extensive efforts to address concerns expressed at an earlier Council meeting, including coordination with Duke Power to negotiate a location on Hub property and unsuccessful efforts to co-locate on the nearby 360 tower. Ms. Arceneaux spoke to the change in ownership of the 360 Communications which had complicated discussions, provided slides and spoke to the desired features of a site location, detailed problems with alternate sites, and reiterated the company's efforts to co-locate on towers whenever possible. Ms. Arceneaux emphasized that the continuation of this rezoning would place a burden on the company. Mr. Seagren advised the FAA would not allow their company to co-locate above 360 on their tower and locating lower on the tower would not provide adequate coverage.

Council discussed various opinions and concerns with respect to this rezoning; i.e., the desire for Sprint to be more diligent in attempting to co-locate on the existing 360 tower, the desire to minimize the location of towers throughout Greensboro, etc. After further discussion, Councilmember Vaughan moved that this item be continued to the July 21 meeting of Council; he directed Ms. Arceneaux and Mr. Seagren to use due diligence in pursuing contact with 360 Communications and to prepare appropriate documentation with respect to their efforts. The motion was seconded by Councilmember Holliday and adopted unanimously by voice vote of the Council.

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Mayor Allen stated that this was the time and place set for a public hearing for consideration of an Ordinance rezoning from RS-12 Residential Single Family to Conditional Use RM-8 Residential Multifamily for property located on the north side of Joseph M. Bryan Boulevard west of Horse Pen Creek Road--this matter being continued from the May 19 and June 16, 1998 meetings of Council.

Mr. Martin advised this rezoning had been continued to obtain new information and reopen the public hearing. He stated that staff recommended that this rezoning not be approved. Council declined his offer to again review details of the zoning request.

Councilmember Mincello stated that on behalf of the residents of Sullivan's Lakes and to enable the requested zoning for the access road to this property to move forward, she would move to continue this item to the July 21 meeting of Council. The motion was seconded by Councilmember Carmany.

After brief discussion regarding the difference of opinion as to whether the ordinance should be continued to another Council meeting, the Mayor asked if anyone wished to speak to the continuation of this matter.

Robert Marks, residing at 2610 Spring Bridge Circle, stated that because another rezoning request to add an additional condition for this property was scheduled for consideration by the Zoning Commission, he would request that this item be continued until after that time to ensure that Council would have the total picture of the overall zoning situation for the property.

Henry Isaacson, 101 West Friendly Avenue, attorney representing Portrait Homes, expressed concern that this matter had been continued a number of times, reviewed the history of the request and thereupon requested that the public hearing for this rezoning be held at this time. Mr. Isaacson advised he and others associated with the development were prepared to present new information and offer new conditions for Council's consideration. Mr. Isaacson emphasized that in response to Council's concern with only one access to the proposed development, the developer had responded by negotiating with St. Paul Catholic Church for property to provide an additional entrance to the Wedgewood property. He stated that this item would be considered by the Zoning Commission on July 13 and the church only wanted this property rezoned if the Portrait Homes' rezoning request for the Wedgewood property were approved at this meeting. Mr. Isaacson also stated that the developer had also taken steps to address other issues of concern expressed at that meeting.

Council briefly discussed with Messrs. Marks and Isaacson their respective positions regarding the continuation of the public hearing.

Councilmember Mincello's motion to continue the rezoning was thereupon DEFEATED on the following roll call vote: Ayes: Allen, Carmany, Johnson, Mincello. Noes: Burroughs-White, Holliday, Jones and Vaughan, with Councilmember Perkins abstaining due to conflict of interest.

Mayor Allen asked if anyone wished to speak to this rezoning and thereupon administered the oath to those individuals.

Mr. Isaacson reviewed the conditions contained in the proposed ordinance and thereupon requested the Council to add the following conditions to the proposed ordinance: 3(g) To locate Petitioner's wet detention pond and outfall so that the piped outflow from that pond will not be directed into or onto the adjoining Sullivan's Lake Subdivision (the wet detention point will be designed to control the ten year storm event). (This condition supersedes and replaces condition 2(e) which was previously offered as a part of this rezoning application); and in the event that street access to Horse Pen Creek Road is allowed as a result of future rezoning to the east of this property, the applicant shall cause such street to be built at its own expense and 2(g) Developer will construct a four-foot wide monolithic raised concrete island on Horse Pen Creek Road from its intersection with new Garden Road to the main entrance with Garden Creek Center. (This condition supersedes and replaces conditions 2(b) and 2(d) which were previously offered as a part of this rezoning application.)

Councilmember Vaughan moved that the ordinance be amended as requested by Mr. Isaacson. The motion was seconded by Councilmember Johnson and unanimously adopted by voice vote of the Council.

Mr. Isaacson spoke to conditions that had earlier been added to the proposed ordinance and to earlier continuances to enable staff to provide additional information. He advised that since the May 19 meeting, the developer's representatives had met with members of the Sullivan's Lakes Homeowners Association to discuss their concerns with respect to the development, including possible problems that might be created with regard to the Sullivan's Lakes underground storm water system. He advised that in response to that meeting as well as attempting to address Council's concerns with respect to limited access to the property, the developer had responded by adding the two conditions approved earlier by Council. Mr. Isaacson detailed negotiations with St. Paul Catholic Church to acquire property to provide additional access to the proposed development. He reviewed the number/type of homes that could be constructed under the existing zoning, stated that RM-8 Residential Multifamily was not one of the most dense zoning classifications and emphasized that Portrait Homes had done everything it could do to satisfy the concerns expressed at the May 19 meeting.

Robert Dischinger, residing at 4609 Dundas Drive, representing Evans Engineering, shared with Council a revised development concept for the property proposed for rezoning which also illustrated all surrounding properties being discussed in conjunction with this rezoning request. Speaking to concerns expressed at the May 19 Council meeting with respect to the processing of storm water runoff from this property, Mr. Dischinger developer had acquired additional property which would be used to address storm water runoff from the proposed development; he reviewed in detail the manner in which 100% of this runoff would be channeled to the new retention pond site.

Ramey Kemp, residing at 4928-A Windy Hall Drive, Raleigh, NC, reviewed certain roadway improvements contained in the proposed ordinance which were designed to address concerns expressed by the Council and area residents, specifically the development of a concrete island on Horse Pen Creek Road which the developer and city staff believed would resolve access and left-turn concerns to the proposed development.

Paul Holtz, residing at 5411 Torey Hill Drive, spoke to the operation of Portrait Homes in other cities, stated that the proposed development would provide quality affordable townhomes for citizens, and emphasized that the developer's proposal had been altered considerably to address concerns regarding access to the development and storm water runoff issues. Mr. Holtz also noted that the agreement with Church would also enable the facility to move forward with expansion plans.

Robert Marks, residing at 2610 Spring Bridge Circle in Sullivan's Lake and President of the Homeowners Association, spoke in opposition to the proposed development. He spoke to meetings with the developer and stated that although conditions had been added to the proposed ordinance to address water runoff concerns and provide an additional entrance to the property, the residents at Sullivan's Lake continued to have concerns with respect to the proposed development; i.e., density, the unsuitable topography, the increased traffic congestion that would be created, the fact that the runoff created by the additional impervious surface would continue to create water runoff problems for residents of Sullivan's Lakes, and the negative impact this project and other future developments would have on existing neighborhoods in the area.

Robert C. Siller, residing at 4206 Sullivan's Lake Drive, spoke in opposition to the rezoning. Mr. Siller provided details with respect to the history of this rezoning request, noted the proposed agreement between the developer and the Catholic Church, spoke to meetings with the developer, spoke to the possibility of future requests for rezoning and development of area property, and reiterated the negative impact this and other future development would have on the homeowners and area; i.e., increased water runoff, traffic congestion, etc.

Mr. Martin stated that the Planning Department recommended denial of the rezoning request. He advised the request was not consistent with the new Garden Corridor recommendation. He clarified ownership of property adjacent to this parcel and reviewed highlights of the Zoning Commission meeting.

Ken King, Greensboro Department of Transportation, advised he had worked with Mr. Kemp in an effort to address traffic concerns that had been expressed at the earlier Council meeting. He thereupon reviewed for Council the proposed roadway improvements proposed to address traffic concerns and provide an additional access to the proposed development; Mr. King stated that while traffic was still a concern for the area, the conditions that had been added had improved the proposal now being considered by Council.

Mayor Allen administered the oath to Steve Kennedy, Engineering and Inspections Department Director; and Elizabeth Treadway, Director of Environmental Services. Mr. Kennedy advised the staff of these two departments had provided to Council information with regard to drainage concerns. Stating that the developer's representatives had met with staff at the development site to discuss concerns, he advised the conceptual plan had exceeded City requirements and had addressed concerns with respect to drainage issues. Mr. Kennedy and Ms. Treadway stated that staff had not reviewed the current plan to address drainage from the proposed development site.

Council discussed various opinions and concerns with respect to this rezoning request; i.e., problems and proposed solutions to address water runoff from the proposed development, traffic congestion, existing conditions contained in the proposed ordinance and the developer's proposal to add additional conditions to address some of the concerns, the proposed density of the development, the topography of the site and its most desirable use; the difficult circumstances surrounding this rezoning request, etc. The Manager and members of staff reiterated that staff could offer no guarantees with respect to the success of the developer's plans to address water runoff and traffic congestion issues.

After lengthy discussion, Councilmember Jones moved that the ordinance rezoning this property to conditional Use—RM-8 Residential Multifamily, as amended, be approved based on the following findings of fact:

- 1) The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety because there are no health or safety concerns inherent in the proposed use of the property.
- 2) The development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property because there are similar uses continuous and opposite the subject property.
- 3) The location and character of the development in accordance with the proposed conditions will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City and its environs because the proposed conditions are compatible with adjacent residential development and access to Horse Pen Creek Road concerns have been addressed, as well as rain water runoff retention ponds.

The motion was seconded by Councilmember Johnson; the ordinance, as amended, was adopted on the following roll call vote: Ayes: Burroughs-White, Carmany, Holliday, Johnson, Jones, Mincello and Vaughan. Noes: Mayor Allen, with Councilmember Perkins abstaining due to conflict of interest.

#### 98-99 AMENDING OFFICIAL ZONING MAP AND AUTHORIZING ISSUANCE OF CONDITIONAL USE PERMIT

##### NORTH SIDE OF JOSEPH M. BRYAN BOULEVARD WEST OF HORSE PEN CREEK ROAD

#### BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1. The Official Zoning Map is hereby amended by rezoning from RS-12 Residential Single Family to Conditional Use - RM-8 Residential Multifamily (subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance) the area described as follows: BEGINNING at a point in the northern right-of-way line of Bryan Boulevard (at the new service road), said point being located the following courses and distances from an existing monument in the northern right-of-way line of Bryan Boulevard: from said existing monument which is also a southeast corner of the property of the Mabel S. Hodgin Heirs (now or formerly) N13°32'58"E 83.94 feet to a point; thence S76°27'01"E 30.88 feet to said beginning point; thence along the eastern property line of the Mabel S. Hodgin Heirs N34°57'30"W 485.35 feet to a point; thence N34°57'30"W 254.74 feet to a point, said point being a common corner with Sullivan's Lake/Springfield Properties; thence N41°51'45"E 175.07 feet to a point; thence N41°49'30"E 534.74 feet to a point; thence S51°36'30"E 157.35 feet to a point; thence N88°16'30"E 279.97 feet to a point, said point being a corner with Sullivan's Lake/Springfield Properties, C.A. Moser as recorded in Deed Book 4178, Page 41, and W.M. Canada as recorded in Deed Book 2012, Page 363; thence along the western line of the Canada property S02°41'30"W 208.23 feet to a point, said point being the northwest corner of the property of St. Mary's Catholic Church as recorded in Plat Book 107, Page 126; thence along the line of said church property S02°26'30"W 513.91 feet to a point; thence S02°23'30"W 156.29 feet to a point, said point being the northwest corner of the property of John Brown as recorded in Deed Book 3750, Page 1050; thence S02°32'30"W 192.41 feet to a point; thence N85°51'30"E 483.23 feet to a point located along the new service road in the northern right-of-way line of

Bryan Boulevard; thence along a curve to the right having a radius of 318.10 feet and a chord bearing and distance of S67°38'47"W 373.37 feet to a point; thence N76°27'01"W 557.91 feet to the point of BEGINNING, containing approximately 17.295 acres as shown on a survey prepared January 2, 1997 and revised March 5, 1998 by Borum, Wade and Associates, P.A.

Section 2. That the issuance of a Conditional Use Permit in accordance with the above-mentioned change in zoning classification is hereby authorized subject to the following use limitations and conditions:

- 1) All uses permitted in the RM-8 Zoning District.
- 2) Road Dedication and Improvements:
  - a) A maximum of one (1) site access driveway shall be constructed on New Service Road.
  - b) All of the above improvements and designs shall conform to GDOT and NCDOT design standards.
  - c) Developer will survey Sullivan's Lake pond prior to development; when development is stabilized, developer will remove any silt that has been contributed above the existing level up to the point the development is turned over to the Homeowners Association.
  - d) Developer will construct a four-foot wide monolithic raised concrete island on Horse Pen Creek Road from its intersection with New Garden Road to the main entrance with Garden Creek Center. (This condition supersedes and replaces conditions 2(b) and 2(d) which were previously offered as a part of this rezoning application.)
- 3) Other:
  - a) Maximum of 138 units.
  - b) Buildings shall be constructed of wood frame material with brick accents.
  - c) No buildings shall exceed two (2) stories in height.
  - d) All street and other lighting shall be in harmony with the buildings constructed therein and shall be sufficient to provide adequate security for the inhabitants without disturbing adjoining property owners.
  - e) Along the frontage of New Service Road and along the common property line between the subject property and the Sullivan's Lake Townhouse Development, the rate of shrub planting and minimum caliper of canopy trees shall be doubled (34 per 100 and 4", respectively).
  - f) Developer shall control storm water runoff from all proposed built-upon areas and other new development on the site through the use of wet detention ponds or other best management practices meeting performance standards set forth in the City of Greensboro Watershed Protection regulations.
  - g) To locate Petitioner's wet detention pond and outfall so that the piped outflow from that pond will not be directed into or onto the adjoining Sullivan's lake Subdivision (the wet detention pond will be designed to control the ten year storm event. (This condition supersedes and replaces condition 2(e) which was previously offered as a part of this rezoning application); and in the event that street access to Horse Pen Creek Road is allowed as a result of future rezoning to the east of this property, the applicant shall cause such street to be built at its own expense.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in Chapter 30 of the Greensboro Code of Ordinances. Final plans for any development to be made pursuant to any Conditional Use Permit shall be submitted to the Technical Review Committee for approval.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in Chapter 30 of the Greensboro Code of Ordinances.

(Signed) Earl F. Jones

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Mayor Allen announced a recess at 8:10 p.m.

The City Council re-convened at 8:20 p.m. with all members present.

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The Mayor stated that this was the time and place set for a public hearing for consideration of an Ordinance annexing to the corporate limits approximately one acre of territory located on the south side of Shoffner Court; Mayor Allen thereupon introduced so that these matters could be discussed together, an ordinance establishing Original Zoning classification from County Zoning RS-30 Residential Single Family to City Zoning Conditional Use—RM-12 Residential Multifamily with property to be developed in

conjunction with the CU-RM-12 property to which it is adjacent and under the same conditions as set forth in CU# 2648 for property located on the south side of Shoffner Court east of Randleman Road. The Mayor asked if anyone wished to be heard.

Mr. Martin provided the following staff presentation:

#### REQUEST

This request is to establish original zoning of property from County Zoning RS-30 Residential Single Family to City Zoning Conditional Use – RM-12 Residential Multifamily.

The RS-30 District is primarily intended to accommodate single family detached dwellings at a density of 1.3 units per acre or less.

The RM-12 District is primarily intended to accommodate multifamily units at a density of 12.0 units per acre or less.

#### CONDITIONAL USE CONDITIONS FOR THE REQUESTED ZONING DISTRICT

- 1) This property shall be developed in conjunction with the “CU-RM-12” property to which it is adjacent and under the same zoning conditions as set forth in CU #2648.

#### DESCRIPTION OF THE PROPERTY, SURROUNDING LAND USE AND ZONING

This property consists of approximately 0.84 acre and is located on the south side of Shoffner Court east of Randleman Road.

	<u>Zoning</u>	<u>Land Use</u>
<i>Subject Property</i>		<i>RS-30 Single family dwelling &amp; duplex (both vacant)</i>
North	RS-30	Single family dwelling
East		<i>CU-RM-12 Vacant land in process of being cleared for development</i>
South	CU-RM-12	Same as above
West	CU-RM-12	Same as above

The Council declined Mr. Martin’s offer to provide slides which had been reviewed several months ago.

Mayor Allen administered the oath to Al Leonard, Carol Properties, who was present in the Chamber to answer any questions from City Council. Mr. Leonard requested the Council to annex this property and approve the requested rezoning.

Councilmember Mincello moved adoption of the ordinance annexing to the corporate limits approximately one acre of territory located on the south side of Shoffner Court. The motion was seconded by Councilmember Johnson; the ordinance was adopted on the following roll call vote: Ayes: Allen, Burroughs-White, Carmany, Holliday, Johnson, Jones, Mincello, Perkins and Vaughan. Noes: None.

#### 98-100 AN ORDINANCE ANNEXING TERRITORY TO THE CORPORATE LIMITS (LOCATED ON THE SOUTH SIDE OF SHOFFNER COURT -- APPROXIMATELY 1 ACRE)

Section 1. Pursuant to G.S. 160A-31, the hereinafter described territory is hereby annexed to City of Greensboro:

BEGINNING at an existing iron pipe in the southern margin of Shoffner Court, N.C.S.R. 3310, at the northwestern corner of Carroll Investment Properties, Inc. as recorded and described in Deed Book 4668 Page 1784 in the Office of the Register of Deeds of Guilford County, North Carolina, said beginning point being located S 86°30’58” E, 797.33’ along said southern margin of said Shoffner Court, N.C.S.R. 3310 from the eastern margin of Randleman Road, N.C.S.R. 1113; thence N 02°10’11” W, 45.22’ to a point in the northern margin of said Shoffner Court, N.C.S.R. 3310; thence along said northern margin, S 86°30’58” E, 4.45’ to a point;

thence continuing along said northern margin, S 85°23'43" E, 187.32' to a point; thence, S 03°45'58" W, 45.00' to an existing iron pipe in said southern margin of said Shoffner Court, N.C.S.R. 3310, at the northeastern corner of said Carroll Investment Properties, Inc.; thence along the eastern line of said Carroll Investment Properties, Inc., S 03°45'58" W, 70.78' to an existing iron pipe; thence continuing along said eastern line, S 08°54'58" W, 139.48' to an existing iron pipe at the southeastern corner of said Carroll Investment Properties, Inc.; thence along the southern line of said Carroll Investment Properties, Inc., N 87°06'37" W, 152.25' to an existing iron pipe at the southwestern corner of said Carroll Investment Properties, Inc.; thence along the western line of said Carroll Investment Properties, Inc., N 02°10'11" W, 215.93' to the point and place of BEGINNING and being an area of 1.033 acres more or less.

Section 2. The owner agrees to pay to the City of Greensboro an acreage fee of two hundred dollars (\$200.00) per acre for water service and two hundred dollars (\$200.00) per acre for sewer service immediately prior to the time of annexation. Any utility line assessments which may have been levied by the County shall be collected either by voluntary payment or through foreclosure of same by the City. Following annexation, the property annexed shall receive the same status regarding charges and rates as any other property located inside the corporate limits of the City of Greensboro.

Section 3. The owner shall be fully responsible for extending water and sewer service to the property at said owner's expense.

Section 4. From and after the effective date of annexation, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force within the City and shall be entitled to the same privileges and benefits thereof, subject to the provisions in Sections 2 and 3 above.

Section 5. From and after September 30, 1998, the liability for municipal taxes for the fiscal year shall be prorated on the basis of 9/12 of the total amount of taxes that would be due for the entire fiscal year. The due date for prorated municipal taxes shall be September 1, 1999. Municipal ad valorem taxes for the 1998-99 fiscal year and thereafter shall be due annually on the same basis as any other property within the city limits.

Section 6. That this ordinance shall become effective on and after September 30, 1998.

(Signed) Nancy Mincello

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Councilmember Vaughan moved that the ordinance establishing original zoning of this property to Conditional Use – RM-12 Residential Multifamily be approved based on the following findings of fact:

- 1) The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety because there are no health or safety concerns inherent in the proposed use of the property.
- 2) The development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property because this property will be zoned the same as abutting property.
- 3) The location and character of the development in accordance with the proposed conditions will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City and its environs because this property is to be developed in conjunction with abutting property.

The motion was seconded by Councilmember Jones; the ordinance was adopted on the following roll call vote: Ayes: Allen, Burroughs-White, Carmany, Holliday, Johnson, Jones, Mincello, Perkins and Vaughan. Noes: None.

98-101

AMENDING OFFICIAL ZONING MAP AND  
AUTHORIZING ISSUANCE OF CONDITIONAL USE PERMIT

SOUTH SIDE OF SHOFFNER COURT EAST OF RANDLEMAN ROAD

Section 1. The Official Zoning Map is hereby amended by establishing original zoning from County Zoning RS-30 Residential Single Family to City Zoning Conditional Use – RM-12 Residential Multifamily (subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance) the area described as follows:

Section 2. That the issuance of a Conditional Use Permit in accordance with the above-mentioned change in zoning classification is hereby authorized subject to the following use limitations and conditions:

- Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in Chapter 30 of the Greensboro Code of Ordinances. Final plans for any development to be made pursuant to any Conditional Use Permit shall be submitted to the Technical Review Committee for approval.

Section 5. This ordinance shall be effective upon the date of annexation.

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After brief remarks and there being no one present desiring to speak to this matter, Councilmember Johnson moved adoption of the ordinance. The motion was seconded by Councilmember Vaughan; the ordinance was adopted on the following roll call vote: Ayes: Allen, Burroughs-White, Carmany, Holliday, Johnson, Jones, Mincello, Perkins and Vaughan. Noes: None.

Section 1. That Section 30-2-1, Definition Index, is hereby amended by adding the following in alphabetical sequence:

Section 2. That Section 30-2-2.7, General, is hereby amended by adding the following definition in alphabetical sequence:



“Wireless Telecommunication Tower. A structure that is used to transmit radio waves in conjunction with wireless telephony technology. Wireless telecommunication towers include, but are not limited to, monopolies, lattice towers, and related antennas, as well as antennas attached to buildings. Wireless telecommunication towers shall not include television towers, AM/FM radio towers or guyed towers with supporting cables and anchors, or ham radio equipment antennas.”

Section 3. That Table 30-4-5-1, Permitted Use Schedule, is hereby amended by adding in alphabetical sequence under the Transportation, Warehousing & Utilities subsection the following use to read “Wireless Telecommunication Towers,” by placing a “0000” entry in the Ref SIC column, by placing a “D” entry in the AG, RS-40, RS-30, RS-20, RS-15, RS-12, RS-9, RS-7, RS-5, RM-5, RM-8, RM-12, RM-18, RM-26, LO, GOM, GOH, NB, LB, GB HB, CB, SC, CP, LI, HI, and PI columns, and by placing a “3” entry in the LUC column.

Section 4. That Section 30-5-2, Development Standards for Individual Uses, is hereby amended by adding a new subsection 30-5-2.91 entitled “Wireless Telecommunication Towers” to read as follows:

(A) Where Required: All districts.

(B) Minimum Area:

- 1) The minimum lot size shall be one (1) acre in AG, all residential, LO and NB Districts.
- 2) The minimum lot size shall be the minimum required in the particular district for GO-M, GO-H, all commercial, all industrial, and PI Districts.

(C) Principal Use of Land:

- 1) In AG, all residential, LO and NB districts the property upon which a tower is located shall be primarily developed with governmental, institutional and recreational uses or right-of-way for a cross-country utility transmission distribution structure. Examples include: fire stations, schools, churches, parks, libraries, water tanks, 911 facilities, athletic fields, golf courses, clubs or lodges, swim and tennis clubs, and cemeteries/mausoleums. Towers shall not be permitted on vacant land.
- 2) In all RM districts the property upon which a tower is located shall have a minimum of one hundred (100) dwelling units, or the property shall be primarily used for a land use listed in 1) above. Towers shall not be permitted on vacant land.

(D) Setback and Height of Attached Concealed Towers: Any tower that is to be attached to a building devoted to another use in such a manner that the Technical Review Committee finds that the tower will be effectively concealed or disguised shall observe the minimum setbacks and maximum height of that building.

(E) Setback of Other Towers: Towers shall be located a minimum of one hundred (100) feet from any abutting residentially zoned property and shall be located such that all supporting cables and anchors are contained within the property.

(F) Height of Other Towers: In AG, all residential, LO and NB districts the maximum tower height shall be eighty (80) feet. In the GO-M District a tower may exceed the maximum height with approval of a Special Use Permit.

(G) Aesthetics: In residential, office, and commercial districts, new towers shall be unobtrusive. To the maximum extent possible, antennas and poles shall be camouflaged in an effort to conceal them from public view. Concealment may be in the form of building antennas into lighting fixtures, blending antennas into hidden rooftop mounts, locating antennas inside wall-mounted signage, mounting antennas inside self-containing monopoles, and flush-mounting antennas on monopoles. Examples include flagpoles; church steeples; monopoles and/or lattice towers disguised as clock and/or bell towers, trees, signs, public art and/or other camouflaged structures available to the industry. Roof-mounted antennas extending less than five (5) feet above the principal building shall be painted to match the color of the façade of the principal building. Roof-mounted antennas extending over five (5) feet above the principal building shall be located behind a façade that blends with the principal building.

- (H) Placement: In order to fulfill the requirements of subsection (G) above, towers may be required to be located on top of or behind the principal building unless a different location is approved by the Technical Review Committee.
- (I) Fencing: All compounds shall be screened with opaque fencing. In the AG, LI, and HI districts this fencing may be in the form of slats inserted in a chain link fence. Fencing around compounds within or adjacent to residentially zoned or residentially occupied property shall match the façade of the principal building. If there is no principal building, shadowbox fencing shall be used.
- (J) Orientation: Access to the compound shall be from the interior of the site and not from a separate driveway connection to a public or private street. For all facilities within or adjacent to residentially zoned or residentially occupied property, the gated drive to the compound shall be located to minimize the effect on adjoining property and the gate shall not face any lot line that is within one hundred (100) feet of the gate.
- (K) Landscaping: A row of evergreen shrubs and trees shall be provided around the perimeter of the compound, excluding the gated drive area. Said landscaping shall be planted five (5) feet from the fence.
- (L) Equipment Building or Shelter: In AG, all residential, LO and NB districts, a pitched roof shall be required for any such building or shelter that extends more than one (1) foot above the height of fencing required by subsection (I) above.
- (M) Co-location: The applicant is encouraged to lease space on a planned or existing tower(s). The Technical Review Committee may require the applicant to co-locate or provide evidence that reasonable efforts have made to co-locate on such a planned or existing tower, or that no planned or existing tower(s) will technically satisfy the applicant's needs.
- (N) Application Information: The applicant shall submit photographs of a similar facility and use photo imagery to superimpose the facility onto the existing site for review and approval by the Technical Review Committee. Design review shall insure that the facility bears a reasonable relationship to the proportions and scale of existing buildings and structures. Once the site plan and photograph(s) or photo rendering(s) of the facility are approved, the facility must be constructed in compliance with this approval. If not so constructed, the Enforcement Officer shall order that the facility be altered to achieve compliance with the approved application. If the applicant fails to achieve compliance within sixty (60) days, the Enforcement Officer shall issue a Notice of Violation directing that the facility be removed within sixty (60) days of the date of said notice.
- (O) Termination of Use: A tower that is no longer used for communication purposes shall be removed within ninety (90) days of the date it is taken out of service.

Section 5. All ordinances in conflict with the provisions of this ordinance are repealed to the extent of such conflict.

(Signed) Yvonne J. Johnson

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Mayor Allen stated that this was the time and place set for a public hearing to consider a resolution closing Hairston Street – from approximately 207' southeast of Hornaday Road southeastward to its end. The Mayor asked if anyone wished to be heard.

There being no one present desiring to speak to this matter, Councilmember Carmany moved adoption of the resolution. The motion was seconded by Councilmember Vaughan; the resolution was adopted on the following roll call vote: Ayes: Allen, Burroughs-White, Carmany, Holliday, Johnson, Jones, Mincello, Perkins and Vaughan. Noes: None.

# 128-98 RESOLUTION CLOSING HAIRSTON STREET FROM APPROXIMATELY 207 FEET SOUTHEAST OF HORNADAY ROAD SOUTHEASTWARD TO ITS END

WHEREAS, the owner of all of the property abutting both sides of Hairston Street from approximately 207 feet southeast of Hornaday Road southeastward to its end has requested in writing that said portion of street be closed and abandoned as a public street;

WHEREAS, a notice was duly published that a public hearing would be held by the City Council in the Council Chamber in the Municipal Office Building on Tuesday, July 7, 1998, at 6:00 p.m., on the closing of said portion of street;

WHEREAS, the public hearing has now been held and no objections have been made to the closing thereof;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

1. That the City Council hereby finds as a fact that the owner of all of the property abutting both sides of the hereinafter mentioned portion of street has requested in writing that said portion of street be closed.

2. That the City Council hereby finds as a fact that the closing of the portion of street is not contrary to the public interest and that no individual or other party owning property in the vicinity of the street or in the subdivision in which the street is located will be deprived of reasonable means of ingress or egress to his or its property.

3. That the following portion of street is hereby permanently closed and abandoned as a public street:

**HAIRSTON STREET FROM APPROXIMATELY 207 FEET SOUTHEAST OF HORNADAY ROAD  
SOUTHEASTWARD TO ITS END**

4. That the City of Greensboro hereby reserves a utility easement over each existing utility line located in the above mentioned street until such time as said line is no longer required by the City.

(Signed) Sandy Carmany

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The Mayor stated that this was the time and place set for a public hearing to consider a resolution confirming assessment roll on basis of petition for water and sewer improvements on Friendway Road from Friendly Road to Fuquay Place. Mayor Allen asked if anyone wished to be heard.

There being no one present desiring to speak to this matter, Councilmember Burroughs-White moved adoption of the resolution. The motion was seconded by Councilmember Johnson; the resolution was adopted on the following roll call vote: Ayes: Allen, Burroughs-White, Carmany, Johnson, Jones, Mincello, Perkins and Vaughan. Noes: None.

F-182

**RESOLUTION CONFIRMING ASSESSMENT ROLL  
FOR LOCAL IMPROVEMENTS**

**FRIENDWAY ROAD FROM FRIENDLY ROAD TO FUQUAY PLACE**

WHEREAS, on the 5th day of September, 1995, the City Council of the City of Greensboro adopted a resolution ordering the making on the street or streets hereinabove set out of the following improvements:

Water Main Improvements. That a water main be laid on the street or streets hereinabove named within the limits defined and that necessary laterals be laid for the proper connection of abutting property with the water main.

Sewer Main Improvements. That a sanitary sewer main be laid on the street or streets hereinabove named within the limits defined and that necessary laterals be laid for the proper connection of abutting property with the sewer main.

AND, WHEREAS, the improvements have now been completed, and the City Council has ascertained the total cost thereof and the amount that should be assessed against each lot abutting on the improvements on account of the improvements and has caused to be prepared a general plan map of the improvements, on which map is shown the frontage and location of each lot on the street or streets improved, together with the owners thereof, as far as the same can be ascertained, the plan map being marked:

**FRIENDWAY DRIVE  
Friendly Road to Fuquay Place**

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

1. That the total cost of the improvements is hereby designated to be the amount shown thereof on said general plan map.
2. That the City Council finds as a fact that each lot abutting on the improvements has been specially benefited by the improvements in the amount assessed against such lot as shown by the preliminary assessment roll.
3. That the general plan map is hereby confirmed at 6:00 p.m., on the 7th day of July, 1998, and is hereby made the final assessment roll for the improvements.
4. That the City Clerk is hereby directed to enter on the minutes of this council and the assessment roll the date, hour and minute of the confirmation thereof and to deliver a copy of the assessment roll to the City Tax Collector.
5. That, after the expiration of 20 days from this date, the City Clerk shall cause to be published one time in some newspaper published in the city a notice that any assessments contained in the assessment roll may be paid in full to the City Tax Collector without interest thereon at any time before the expiration of 30 days.
6. That, if the owners of the lots against which the assessments have been made do not exercise their option to pay the same in cash as hereinabove provided, then the same shall be payable in five equal installments as provided in the original resolution ordering the making of the improvements, such installments to bear interest at the rate of six percent per annum from this date.
7. That the first of the installments with interest thereon shall become due and payable on the first day of September next following the date that payments may be made without interest. One subsequent installment with interest thereon shall be due and payable on the first day of September of each successive year until the assessments have been paid in full.

(Signed) Claudette Burroughs-White

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Moving to the Consent Agenda, Mayor Allen introduced the following ordinances as required in the Greensboro Code of Ordinances:

- Ordinance amending in the amount of \$30,350 the State and Federal Grants Project Fund Budget;
- Ordinance establishing grant project accounts in the amount of \$73,000 for the 'Operation Safe Home' Project between the Greensboro Police Department and the United States Department of Housing and Urban Development;
- Ordinance amending in the amount of \$60,000 the State and Federal Grants Project Fund Budget for the Volunteers of the Court agency;
- Ordinance amending in the amount of \$60,000 the State and Federal Grants Project Fund Budget for the Lake Brandt Walking/Bike Trail.

The Mayor thereupon requested a motion to adopted the ordinances, resolutions and the motion listed on the Consent Agenda. Councilmember Carmany moved adoption of the Consent Agenda. The motion was seconded by Councilmember Vaughan; the Consent Agenda was adopted on the following roll call vote: Ayes: Allen, Burroughs-White, Carmany, Holliday, Johnson, Jones, Mincello, Perkins and Vaughan. Noes: None.

#### 98-103 ORDINANCE AMENDING THE STATE AND FEDERAL GRANTS PROJECT FUND BUDGET

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the State and Federal Grants Project Fund Budget of the City of Greensboro is hereby amended as follows:

That the appropriation for the State and Federal Grants Fund be increased as follows:

Account	Description	Amount
220-2510-01-6059(001)	Other Capital Equipment	\$30,350

and, that this increase be financed by increasing the following State and Federal Grants Fund account:

Account	Description	Amount
220-2510-01-8620	Donations	\$30,350

(Signed) Sandy Carmany

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98-104 ORDINANCE ESTABLISHING GRANT PROJECT ACCOUNTS FOR THE 'OPERATION SAFE HOME' PROJECT BETWEEN THE GREENSBORO POLICE DEPARTMENT AND THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the Grant Project Budget for the City of Greensboro is hereby amended as follows:

That the appropriation for the Grant Fund for the 'Operation Safe Home' project be established as follows:

Account	Description	Amount
220-3035-02.4210	Overtime	\$25,275
220-3035-02.4510	F.I.C.A.	435
220-3035-02-4520	Retirement	4,290
220-3035-02.5949	Miscellaneous	29,000
220-3035-02.6059	Other Capital Equipment	<u>14,000</u>
TOTAL		\$73,000

And that this grant be financed by increasing the following account:

220-3035-02.7100	Federal Grant	\$73,000
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(Signed) Sandy Carmany

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98-105 ORDINANCE AMENDING THE STATE AND FEDERAL GRANTS PROJECT FUND BUDGET

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the State and Federal Grants Project Fund Budget of the city of Greensboro is hereby amended as follows:

That the appropriation for the State and Federal Grants Fund be increased as follows:

Account	Description	Amount
220-3045-10.5931	Cont. to Non-govt Agency	\$45,000
220-3045-10-5928	In-Kind Services	<u>15,000</u>
		\$60,000

and, that this increase be financed by increasing the following State and Federal Grants Fund account:

Account	Description	Amount
220-3045-10.7110	State Grant	\$45,000
220-3045-10.8697	Local In-Kind Services	<u>15,000</u>
		\$60,000

(Signed) Sandy Carmany

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98-106 ORDINANCE AMENDING THE STATE AND FEDERAL GRANTS PROJECT FUND BUDGET

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the State and Federal Grants Project Fund Budget of the City of Greensboro is hereby amended as follows:

That the appropriation for the State and Federal Grants Fund be increased as follows:

Account	Description	Amount
220-5018-98.5949	Miscellaneous	\$30,000
220-5018-98.5928	In-Kind Services	<u>30,000</u>
		\$60,000

and, that this increased be financed by increasing the following State and Federal Grants Fund account:

Account	Description	Amount
220-5018-98.7100	State Grant	\$30,000
220-5018-98.8695	Local In-Kind Services	<u>30,000</u>
		\$60,000

(Signed) Sandy Carmany

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141-98 RESOLUTION AUTHORIZING CHANGE ORDER IN CONTRACT NO. 1998-10 WITH KENNETH R. GREENE, UTILITY CONTRACTOR, INC. FOR OUTFALL REHABILITATION

WHEREAS, Contract No. 1998-10 with Kenneth R. Greene, Utility Contractor, Inc. provides for the rehabilitation of Yanceyville Street Outfall, Foushee Street Outfall, Englewood Street Outfall, and Woodside Drive Outfall;

WHEREAS, as a result of the recommendation to include an additional project, Westridge Road Outfall, to the above referenced project, it is necessary to make a change order in the contract with Kenneth R. Greene, Utility Contractor, Inc. in the amount of \$91,846.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That a change order in the above-mentioned contract with Kenneth R. Greene, Utility Contractor, Inc. for said outfall rehabilitation is hereby authorized at a total cost of \$91,846.00, payment of said additional amount to be made from Account No. 508-7045-01.6019, CBR .001.

(Signed) Sandy Carmany

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142-98 RESOLUTION AUTHORIZING INSTALLATION OF SEWER MAIN ALONG KATIE DRIVE TO HEDRICK DRIVE UNDER AGREEMENT BETWEEN CITY OF GREENSBORO AND GUILFORD COUNTY

WHEREAS, Guilford County has recently authorized the installation of an 8-inch sewer main along Katie Drive to Hedrick Drive to serve the property of the Greensboro Country Club, in accordance with the Consolidated Water and Sewer Agreement between the County and the City;

WHEREAS, the project will be privately financed by the owners.

WHEREAS, in the opinion of the City Council, the best interest of the City will be served by the construction of the sewer line in accordance with said agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the construction of the above mentioned sewer main in accordance with the agreement between the City of Greensboro and Guilford County is hereby authorized, provided that there shall be no assessments levied.

(Signed) Sandy Carmany

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143-98 RESOLUTION AUTHORIZING THE GRANTING OF A UTILITY EASEMENT TO THE PROVIDENCE DEVELOPMENT GROUP, CONTAINING 1,032 SQUARE FEET, THROUGH SHERIDAN PARK TO SERVE THE HYDE PARK TOWNHOMES

WHEREAS, The Providence Development Group desires to run a sanitary sewer line through an area owned by the City of Greensboro located in Sheridan Park measuring approximately 20' x 57.87', containing approximately 1,032 square feet to serve the Hyde Park Townhomes;

WHEREAS, The Providence Development Group has requested that the City grant an easement containing approximately 1,032 square feet for said sanitary sewer line through said property as shown on the attached map and has offered to pay the City \$475.00 for said right-of-way;

WHEREAS, the granting of said easement will not interfere with the property used by the City and there is no other public need which would be in conflict with the easement to be granted or the use thereof;

WHEREAS, it is deemed in the best interest of the City to grant said easement under condition that The Providence Development Group landscape appropriately in a way that is consistent with the surrounding natural area.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That pursuant to Section 4.128(b) of the City Charter, the granting of an easement containing approximately 1,032 square feet through the above mentioned portion of property to The Providence Group for a sanitary sewer line to serve the Hyde Park Townhomes subject to the conditions stated herein is hereby authorized, and the Mayor and City Clerk are hereby authorized to execute on behalf of the City of Greensboro a proper deed of conveyance to carry the proposal into effect.

(Signed) Sandy Carmany

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144-98 RESOLUTION APPROVING BID AND AUTHORIZING EXECUTION OF CONTRACT 1998-17 FOR THE LAKE TOWNSEND DAM REHABILITATION PROJECT

WHEREAS, after due notice, bids have been received for the Lake Townsend Dam Rehabilitation Project ;

WHEREAS, Crofton Diving Corporation, a responsible bidder, has submitted the low base bid in the total amount of \$473,511.00, which bid, in the opinion of the City Council, is the best bid from the standpoint of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the bid hereinabove mentioned submitted by the responsible bidder, Crofton Diving Corporation, is hereby accepted, and the Mayor and City Clerk are hereby authorized to execute, on behalf of the City of Greensboro, a proper contract to carry the proposal into effect, payment to be made from Account No. 508-7025-02-6019, CBR .002.

(Signed) Sandy Carmany

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145-98 RESOLUTION AUTHORIZING THE PURCHASE OF PROPERTY OF JOHN WILLIAM JORDAN FOR THE LANDFILL BUFFER PROJECT

WHEREAS, in connection with the Landfill Buffer Project, property owned by John William Jordan is required by the City for this Project, said property being as shown on the attached map;

WHEREAS, the owner has agreed to sell the property to the City for \$22,400.00, which amount is more than the appraised value of \$15,000.00 but is thought to be a reasonable alternative to condemnation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the purchase of the above mentioned property in the amount of \$22,400.00 is hereby approved and authorized, with payment to be made from Account No. 553-6509-03.6011, CBR .005.

(Signed) Sandy Carmany

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146-98 RESOLUTION APPROVING APPRAISAL AND AUTHORIZING THE PURCHASE OF PROPERTY OF THOMAS AND LOUISE CALHOUN FOR THE STANLEY ROAD IMPROVEMENTS PROJECT

WHEREAS, in connection with the Stanley Road Improvements Project, a portion of the property owned by Thomas and Louise Calhoun is required by the City for said Project, said property being as shown on the attached map;

WHEREAS, the required property has been appraised at a value of \$20,400.00, which appraisal, in the opinion of the City Council, is fair and reasonable;

WHEREAS, the owner has agreed to convey said property to the City at the appraised price, and it is deemed in the best interest of the City to acquire said property.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

That the appraisal of the above-mentioned portion of property in the amount of \$20,400.00 is hereby approved, and the purchase of the property in accordance with the appraisal is hereby authorized, payment to be made from Account No. 402-4531-01.6012, CBR .007.

(Signed) Sandy Carmany



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147-98 RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT WITH NORFOLK SOUTHERN CORPORATION IN CONNECTION WITH THE INSTALLATION OF A NEW FEEDER MAIN IN THE BATTLEGROUND AVENUE CORRIDOR

WHEREAS, the City proposes to install a new feeder main in the Battleground Avenue Corridor;

WHEREAS, in order to complete construction of said project it is necessary to encroach into the railroad right-of-way of Norfolk Southern Corporation;

WHEREAS, Norfolk Southern Corporation has agreed to the feeder main installation encroaching into its property and has required that the City pay a \$2,100.00 one-time, non-refundable right-of-way rental fee.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

1. That the agreement with Norfolk Southern Corporation allowing the installation of a new feeder main in the Battleground Avenue Corridor to encroach in its right-of-way is hereby approved, and the Mayor and City Clerk are hereby authorized to execute, on behalf of the City of Greensboro said agreement.

2. That the \$2,100.00 one-time, non-refundable right-of-way rental fee shall be charged to Account No. 508-7005-01.6019, CBR .001.

(Signed) Sandy Carmany

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The motion to approve the First Reading of the Resolution approving Telecommunication Franchise Agreement between the City of Greensboro and Qwest Communications Corporation was adopted on the following roll call vote: Ayes: Allen, Burroughs-White, Carmany, Holliday, Johnson, Jones, Mincello, Perkins and Vaughan. Noes: None. The Second Reading for the resolution will be scheduled for the regular meeting of July 21, 1998.

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The motion to approve the minutes of the regular meeting of 16 June 1998 was unanimously adopted.

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Mayor Allen introduced a resolution approving contractor to complete Phase II (Contract 1995-24) for expansion of the T. Z. Osborne Wastewater Treatment Plant.

After the Manager, Deputy City Attorney Miles and Allan Williams, Water Resources Department Director, discussed with Council details regarding the hiring of this firm, the timeframe involved with the firm's beginning/completion of Phase II of expansion, and the State regulations with respect to the issuance of additional extensions, Councilmember Johnson moved adoption of the resolution. The motion was seconded by Councilmember Vaughan; the resolution was adopted on the following roll call vote: Ayes: Allen, Burroughs-White, Carmany, Holliday, Johnson, Jones, Mincello, Perkins and Vaughan. Noes: None.

149-98 RESOLUTION APPROVING CONTRACTOR TO OPERATIONALLY COMPLETE PHASE 2 OF CONTRACT 1995-24 FOR THE EXPANSION OF THE T.Z.OSBORNE WASTEWATER TREATMENT PLANT

WHEREAS, on the 16<sup>th</sup> day of January, 1996, the City of Greensboro entered into a contract, identified as Contract No. 1995-24 (hereinafter referred to as the "Contract") with MCI Constructors, Inc., as General Contractor, for the 30 MGD Expansion and Upgrade for The T. Z. Osborne Wastewater Treatment Plant, Phase III, Contract 1;

WHEREAS, on the 16<sup>th</sup> of June, 1998, progress on Phase 2 of the work described in the Contract was some eight months behind schedule and the Contractor had not met interim completion dates established for the first two Phases of the work, the most recent of which was October 7, 1997 for Phase 2;

WHEREAS, on the same date the City was advised by its Project Engineers that the Contractor had violated material provisions of the Contract;

WHEREAS, on June 16, 1998, it was determined that the continued use of the services of the Contractor would be detrimental to the best interests of the citizens of Greensboro and, pursuant to Paragraph 15.2.4 of the Contract, the Council terminated the services of the Contractor, for cause;

WHEREAS, the City has exceeded its wastewater treatment capacity at the Osborne Facility as established by the State of North Carolina and no further connections to extensions of sanitary sewer mains are allowed by the State Regulatory Agencies until the work described in Phase 2 of the Contract is operational;

WHEREAS the City has entered into a Consent Decree with the American Canoe Association in Case No. 2:96cv00635, Federal Middle District Court of North Carolina, dated September 22, 1997, which said Decree states that the City will begin operation of the expanded and modified portions of the Osborne Facility no later than December 15, 1998;

WHEREAS because of said delays in the Project by the Contractor, as above described, the City, on May 5, 1998, began issuing building permits, and sewer main extension permits, upon the condition that sewer service will be provided to the structure, or main, only in the event of the availability of sewer capacity allocation at the time of completion;

WHEREAS the City believes that the lack of available sewer treatment capacity, the unforeseen delays in the expansion of the Osborne Wastewater Treatment Facility, and the absence of sanitary sewer allocation create a special emergency with reference to the construction of the Osborne Wastewater Treatment Plant Expansion and Upgrade;

WHEREAS under the terms of Paragraph 15.2.4 and other provisions of Contract No. 1995-24 the City, as Owner, may finish the work included in the Contract as it may deem expedient;

WHEREAS Haren Construction Company, Inc., has agreed to complete the work set out in the Contract to be accomplished to achieve operation of Phase 2 on a time and materials, plus a fixed fee for overhead and profit of 20% (10% overhead, 10% profit) thereof; and Haren is presently performing additional work at the Osborne site for the City in an acceptable manner, has a good reputation in this region with other municipalities, and is willing to commit its top managers full time to the Project until Phase 2 is operationally completed; and

WHEREAS the City desires to continue to complete the work under the Original Contract with an estimated operational completion date of December 31, 1998, subject to the original Contract conditions, and including extensions of time as provided in the contract as well as for correction of latent defects which may be discovered in work improperly performed by the original Contractor;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

1. That the City finds that the lack of available sewer treatment capacity, the unforeseen delays in the expansion of the Osborne Wastewater Treatment Facility, and the absence of sanitary sewer allocation create a special emergency with reference to the construction of the Osborne Wastewater Treatment Plant Expansion and Upgrade; and

2. That Haren Construction Company is hereby accepted as the general contractor for the completion of the work, known as Phase 2, contained in Contract No. 1995-24 (30 MGD Expansion and Upgrade Of The T.Z. Osborne Wastewater Treatment Plant) and that the Contract be continued for such Phase 2 on a time, material and a fixed fee for overhead and profit of 20% (10% overhead, 10% profit), with an estimated operational completion date of December 31, 1998 and the Mayor and City Clerk are hereby authorized to execute, on behalf of the City of Greensboro, a proper document to carry the continuation of the Contract into effect, payment to be made from Account No. 507-7056-01.5413.

(Signed) Yvonne J. Johnson

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Mayor Allen stated that Council would now discuss claims concerning the East-West Connector. The City Manager advised an update had been provided to Council with respect to clearing claims on the East West Connector and that the City was still holding the full 10% retainage on this project.

Dan Hartzog, attorney from Raleigh, NC, hired by the insurance company to represent Yates Construction Company, discussed his role in this matter, spoke to the difficulty in bringing together all involved parties in an appropriate mode for discussion and emphasized the desire of Yates Construction Company to resolve this matter. Discussing specifics with respect to the conflict between Yates Construction Company and the residents, he expressed the opinion that all involved parties should be brought together in a mediation settlement conference with a mutual facilitator to resolve all concerns in a rational manner. Mr. Hartzog detailed the use of sub-contractors on this project and the need to determine exactly who was at fault in cutting the trees and thus responsible for damages incurred; he expressed the desire to resolve this issue outside the court arena to avoid a more lengthy process.

Mark Gaylord, attorney representing the Battle Forest Homeowners, Inc., outlined for Council the homeowners' attempts to have dialogue with the parties responsible for these damages and appropriate insurance carriers involved in this matter. He advised that while the homeowners had presented an estimated cost for damages, Yates Construction Company nor any insurance carrier representatives had made monetary offers for settlement of damages. Mr. Gaylord advised that because these attempts were unsuccessful, the Association had filed its lawsuit in March to attempt to resolve their concerns

Both attorneys discussed at length various details about ongoing activities with respect to this matter, including the status of stump removal, the manner in which they believed this matter should be resolved, the timeframe involved with the issue, their perception of what had/had not been addressed, whether or not each side of the issue would be willing to participate in mediation, etc.

Janet Debartolo, residing at 3419 Regents Park Lane, expressed concern with the cutting of trees on her property by a contractor hired by the City of Greensboro and spoke to the hiring of an attorney to represent the residents. She requested that residents be included in any mediation process.

Robert Coke, residing at 2939 Martha's Place, expressed his opinion that while it would be a difficult procedure, large trees should be transplanted into this area to replace trees that were destroyed.

Council discussed various opinions and concerns with respect to this matter; they advised that because this was not an issue that could be resolved by the City Council, this meeting was not the appropriate arena in which to attempt a resolution. Council encouraged the attorneys, residents and other parties to moved forward expeditiously to resolve this matter.

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Alma Adams, residing at # 2 Mandella Court, offered her thoughts regarding the Speakers from the Floor portion of the Council agenda. Ms. Adams expressed concern with respect to the lack of priority given by the City and Duke power to address the needs of some African American communities severely impacted by damages from last week's storm. Ms. Adams offered her thoughts with respect to the possible need for a change in the manner in which disaster areas were declared and encouraged the City to work with the State to effect a change. She also urged that in the future the City and Duke Power to work together to restore services in a timely manner, requested the City to ensure funds were available to address future emergencies and to consider offering additional services regarding trash/debris pickup after major storms.

Council discussed at length various opinions and concerns with respect to this matter; a number of suggestions were offered regarding ways to address various concerns and the process by which organizations/departments might restore trees, etc. to areas most impacted by the storm.

The City Manager spoke to the damage from the storm and commended City staff for the response to city residents. He explained that when areas had power lines were down, crews could not go into neighborhoods until Duke Power had cleared those areas. Assistant City Manager William Harrell, shared detailed information about staff's response to the recent storm and the timeframe for that response.

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Councilmember Perkins spoke to the excellent condition of the Bryan Park golf course and the outstanding value this facility offered to area golfers; he commended appropriated City staff for the progress at the facility.

Councilmember Perkins noted the National AYW basketball tournament involving teams from throughout the United States being held at the War Memorial Coliseum Complex; he encouraged citizens to take advantage of this opportunity to view youth basketball and emphasized the economic impact this tournament would have on Greensboro businesses.

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Councilmember Carmany reported on a recent War Memorial Commission meeting at which time the topic of the use of Coliseum facilities by non-profit groups was discussed.

Councilmember Carmany and other Members of Council expressed appreciation to Grassroots Productions, Inc. and other sponsors and participants for an excellent Fun Fourth celebration

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Councilmember Vaughan added the name of Karl Lack to the boards and commissions data bank for possible service on the Tourism Development Authority and the name of Joseph Rosenblum to the data bank for possible service on the Transit Authority.

Councilmember Vaughan moved that Joanne W. Clark be reappointed to serve a three-year term on the ABC Board; this term will expire on 3 July 2001. The motion was seconded by Councilmember Carmany and adopted unanimously by voice vote of the Council.

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Advising that Florence Gatten could not be reappointed, Councilmember Holliday moved that Elizabeth B. Stauffer be appointed to serve a three-year term on the Library Board; this term will expire 15 August 2001. The motion was seconded by Councilmember Carmany and adopted unanimously by voice vote of the Council.

Councilmember Holliday suggested that because of the power failure at the Osborne Plant during the recent storm, the City should explore an alternate power source for the facility. The City Manager advised that staff was in the process of evaluating this matter and recommendations would be forthcoming to Council.

After Councilmember Holliday requested staff to explore the feasibility of using battery-powered back up systems for traffic signals at major intersections for use during storm outages, Mr. King advised information would be provided to Council. The Manager also spoke to Police Department's efforts to protect intersections during these times.

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Councilmember Johnson moved that Dolly Graves and Sarah S. Malino be re-appointed to serve three-year terms on the Commission on the Status of Women, and that Catherine A. McGibbony and Gloria Rankin be appointed to fill the vacant positions formerly held by Anne Mae Wright and Ruth Widemon; these terms will expire 15 August 2001. The motion was seconded by Councilmember Carmany and adopted unanimously by voice vote of the Council.

After discussion regarding the reappointment of Beatriz Manduley, Councilmember Carmany advised Ms. Manduley had indicated that she did not wish to be reappointed.

After brief discussion, it appeared to be the consensus of Council that a replacement for Joslin S. LeBauer on the Commission on the Status of Women would be delayed for one year to allow her to complete her responsibilities as Co-Chair of CSW's 25<sup>th</sup> Anniversary activities.

Advising that Bill Britt was willing to work with the Parks and Recreation Department, Councilmember Johnson requested the Manager to contact Mr. Britt to discuss any suggestions that might save money for that department.

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The Mayor advised that Council had received detailed information with respect to boards and commissions appointments, vacancies, etc., and that attendance reports would be provided when received by the City Clerk. She requested that Council should be prepared to move forward with these appointments at an upcoming meeting.

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The City Manager offered condolences to former City Manager William H. Carstarphen and his family on the recent death of his wife, Agnes.

City Manager Kitchen also advised in his absence, William Harrell would be Acting City Manager at the July 21 Council meeting.

.....

Councilmember Johnson moved that the City Council adjourn. The motion was seconded by Councilmember Burroughs-White and adopted unanimously by voice vote of the Council.

THE CITY COUNCIL ADJOURNED AT 10:05 P.M.

JUANITA F. COOPER  
CITY CLERK

CAROLYN S. ALLEN  
MAYOR

\* \* \* \* \*